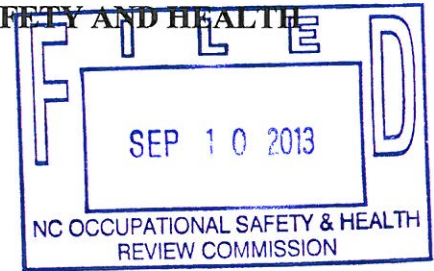


BEFORE THE NORTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION

RALEIGH, NORTH CAROLINA



COMMISSIONER OF LABOR FOR)
THE STATE OF NORTH CAROLINA)
)
COMPLAINANT,)
)
v.)
)
CAROLINA STEEL & STONE, INC.)
)
RESPONDENT.)
_____)

ORDER

OSHANC NO. 2011-5220
INSPECTION NO. 315790170
CSHO ID NO. N5659

THIS MATTER was heard by the undersigned on July 10, 2013 in Charlotte, North Carolina.

The complainant is represented by Linda Kimbell, Assistant Attorney General; the respondent was unrepresented and did not appear, despite being duly notified of the hearing date, time and place by the Commission and the complainant.

Because the respondent was not present for the hearing, the complainant submitted a certified copy of the investigative file in this matter, along with an affidavit of complainant's compliance officer. Absent objection from the respondent, these documents were admitted into evidence. *See, Commissioner v Eagle A, Inc.* OSHANC No. 2002-4200 (2004).

After consideration of the evidence presented, the undersigned makes the following

FINDINGS OF FACT

1. The complainant as Commissioner of Labor is charged with the responsibility for compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina (the "Act").
2. The respondent Carolina Steel & Stone, Inc. is a North Carolina corporation with its principal place of business in Mecklenburg County, North Carolina.

3. On July 15, 2011, Compliance Safety and Health Officer Dawn Jarman initiated a programmed planned inspection at a commercial jobsite at 15419 Hodges Circle in Huntersville, North Carolina.

4. Concorde Construction Company was the general contractor on this project. The respondent was a subcontractor engaged in the erection of structural steel on the site, which is to be the Gilead Medical Center.

5. Ms. Jarman was granted permission to conduct an inspection by Dan Kerber with Concorde and Dennis Parris, safety manager of respondent.

6. Ms. Jarman observed respondent's employees engaged in steel erection activities. One employee without fall protection was observed on the second tier of the steel erection. This level was 14 feet above the ground. There was no fall protection on this level.

7. This employee, Juan Hernandez, was classified as a welder but was not engaged in any welding activities at the time. He was helping another employee move a ladder.

8. Ms. Jarman discussed this occurrence with Mr. Parris, who acknowledged the Mr. Hernandez should have been tied off.

9. Ms. Jarman took photographs of Mr. Hernandez on the second tier without fall protection. The photographs were received in evidence.

10. The condition of an employee working on a steel erection 14 feet above the ground without fall protection created the possibility of an accident the substantially probable result of which would be death or serious injury to Mr. Hernandez.

11. The proposed penalty was computed in accordance with the complainant's Operation's Manual.

Based on the foregoing Findings of Fact, the undersigned makes the following

CONCLUSIONS OF LAW

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

2. The respondent is subject to the provisions of the Act.

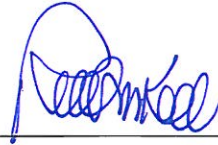
3. The respondent violated the provisions of 29 CFR 1926.501(b)(1) by allowing an employee to engage in construction activities 6 feet or more above lower levels without protection by a guardrail system, safety net system or a personal fall arrest system.

4. This is a serious violation of the Act.

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED as follows:

1. Citation 1, Item 1 is affirmed as a serious violation of 29 CFR 1926.501(b)(1) with a penalty of \$2,500.00.
2. This penalty shall be paid within twenty (20) days of the filing date of this Order.
3. All violations not previously abated shall be immediately abated.

This 6TH day of September, 2013.



RICHARD M. KOCH
HEARING EXAMINER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER, upon:

TIMOTHY DAVIS
PRESIDENT
CAROLINA STEEL & STONE INC
6225 CASHION ROAD
HUNTERSVILLE NC 28078

by depositing same the United States Mail, Certified Mail, postage prepaid, at Raleigh, North Carolina, and upon:

TIMOTHY DAVIS
PRESIDENT
CAROLINA STEEL & STONE INC
6225 CASHION ROAD
HUNTERSVILLE NC 28078

LINDA KIMBELL
NC DEPARTMENT OF JUSTICE
LABOR SECTION
P O BOX 629
RALEIGH NC 27602-0629

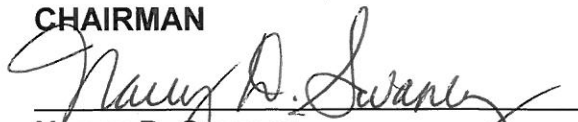
by depositing a copy of the same in the United States Mail, First Class;

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH NC 27699-1101

by depositing a copy of the same in the NCDOL Interoffice Mail.

THIS THE 11th DAY OF September 2013.

OSCAR A. KELLER, JR.
CHAIRMAN



Nancy D. Swaney
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27699-1101
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